

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARK MUCHMORE,

Plaintiff,

vs.

No. CV 11-1100 WDS

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Defendant.

AGREED ORDER AWARDING ATTORNEY FEES AND COSTS UNDER EAJA

THIS MATTER having come before the Court upon Plaintiff's Motion for Attorney Fees and Costs Under Equal Access to Justice Act (Doc. No. 27), and Defendant having no objection to the Motion (Doc. No. 28), the Court FINDS that the Motion for Attorney Fees and Costs should be granted.

IT IS THEREFORE ORDERED that attorney fees be, and hereby are awarded in the amount of \$2,611.90, and costs be, and hereby are, awarded in the amount of \$350.00, under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), payable to Plaintiff in the total amount of \$2,961.90. *See Astrue v. Ratliff*, 130 U.S. 2521 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund

the smaller award to Plaintiff pursuant to Weakley v. Bowen, 803 F.2d 575, 580 (10th Cir. 1986).

DATED this 6th day of February 2013.



W. Daniel Schneider
United States Magistrate Judge

SUBMITTED BY:

s/ Feliz M. Martone

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